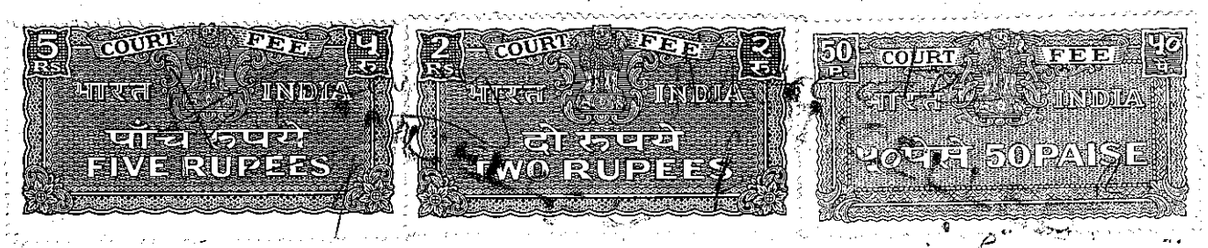
CF0000057308

(2)



IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

Criminal Appeal No. 417 /1990

Appellant :- Negiram son of Jalandhar, aged about 40 years, Agriculturist, resident of Sambalpur, Police Station Kondagaon, District Bastar (M.P.)

33336

-Versus-

Respondent :- The state of Madhya Pradesh.

APPEAL UNDER SECTION 374(2) OF THE CODE OF CRIMINAL PROCEDURE.

Conviction	Sentence
Under Section 436 I.P.C.	R.I. for 3 years and fine of Rs. 500/- or, indefault 4 months R.I.

XI-HC-22

(15)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 417/90 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16-06-2006	

Appellant Negiram by Smt. Savita Tiwari, Advocate.

Shri Ashish Shukla, Govt. Advocate for the State.

Learned counsel for the appellant submitted at the very outset that he would not assail the conviction of the appellant under Section-436 of IPC but would argue only on the question of sentence.

In view of the submission made by learned counsel for the appellant, this appeal is heard only on the question of sentence.

The appellant was convicted under Section-436 of IPC and was sentenced to undergo rigorous imprisonment for 3 years and to a fine of Rs.500/- and in default of payment of fine to undergo additional rigorous imprisonment for 4 months by the learned Ist Additional Sessions Judge, Jagdalpur in Sessions Trial Number-153/1988 vide judgment dated 23-03-1990.

Brief facts of the case are that in the intervening night of 19th & 20th December, 1987 in Village-Sambalpur, P.S. Kondagaon the appellant set hut of Sukhlal PW-1 on fire and thereby committed mischief. Relying upon the evidence of Sukhlal PW-1, Suraj Bai PW-3 and witness Dhosu PW-4, learned trial Judge convicted and sentenced the appellant as aforesaid.

Smt. Savita Tiwari, learned counsel for the appellant has argued that the appellant was in jail during trial from 22-12-1987 till 05-01-1988 and thereafter had undergone sentence from 23-03-1990 to

(16)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 417/90 सन् ~~199~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20-04-1990. She has also drawn the attention of this Court to Statement made by Sukhlal PW-1 that he did not suffer any damage due to fire set by the appellant to his hut. Lastly, it was contended that the appellant has paid the amount of fine. On these grounds, it was prayed that the substantive sentence of imprisonment awarded by the learned trial Judge be reduced to the sentence already undergone by the appellant.

On the other hand, Shri Ashish Shukla, learned Govt. Advocate has opposed the prayer, though formally.

Having heard rival contentions, I have perused the record. The appellant was convicted in the year-1990. He has undergone incarceration from 22-12-1987 to 05-01-1988 during trial and thereafter undergone sentence from 23-03-1990 to 20-04-1990. The appellant ~~has~~ is pursuing this appeal since year 1990. The period of almost 16 years has lapsed during which the appellant has already suffered a lot of ignominy. The complainant Sukhlal has admitted in his testimony that he did not suffer any loss due to fire set by the appellant to his house.

Considering the facts and circumstances mentioned above, interest of justice would be served if the substantive sentence of imprisonment awarded by the learned trial Judge is reduced to the sentence already undergone by the appellant.

In the result, this Criminal Appeal is partly allowed. The conviction of the appellant under Section-436 of IPC is maintained.

(17)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. A. 417/90 ~~सन् 200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Tumane	However, the sentence awarded by the learned trial Judge is modified and is reduced to sentence already undergone by the appellant. Fine awarded by the learned trial Judge is maintained. Sd/- Dilip Raosaheb Deshmukh Judge	